

ACCESS TO FINANCIAL RECORDS

The New Jersey Condominium Act, N.J.S.A. 46:8B-14(g) states that an association, acting through its officers or governing board, shall be responsible for the maintenance of accounting records, in accordance with generally accepted accounting principles (GAAP), and that those records shall be open to inspection at reasonable times by unit owners. Such records shall include a record of all receipts and expenditures and an account for each unit setting forth any shares of common expenses or other charges due, the due dates thereof, the present balance due, and any interest in common surplus. Section 16 (d) of the Act empowers our Department, acting through the Bureau of Homeowner Protection, to enforce this right of inspection. The right of inspection includes the right to make copies.

You as a unit owner should keep in mind that except for the records of receipts and expenditures and unit payment records, the law does not establish specific records as GAAP records. Classification of records is subject to differing interpretation by financial authorities. Thus, each association, in consultation with its accountant, should identify which of its other financial records are GAAP records and therefore open to inspection under the Condominium Act. If you have a basis for disagreeing with the classification, you may request alternative dispute resolution (ADR -see separate insert).

Please note, the Act does not require associations to provide copies of financial statements or records in the absence of a request. If the governing documents require greater disclosures, and the board does not follow them, you should request ADR. In making a request, it is best to do so in writing and with the understanding that there may be certain reasonable restrictions as to time and location in order to preserve the credibility of the records. If the governing documents or board rules do not specify to whom the request should be made, it should be made to the board.

The law does not mandate annual audits, but another law, The Non Profit Corporation Act, Title 15A, and many association by-laws require them. We are not empowered to enforce either Title 15A or your by-laws. You, however, may enforce such requirements yourself through ADR or private legal action.

If you feel you have been denied access to financial documents which constitute GAAP records, please fill in the enclosed form and mail it to the address listed on the form. Please also include a brief explanation of the circumstances under which you were denied access. The Association Regulation Unit has the authority under N.J.S.A. 46:8B-16(d) to ensure an association responds to your request to review and copy the financial records required to be kept.

For further information on either the Planned Real Estate Development Full Disclosure Act, N.J.S. 45:22A-21 or the Condominium Act, N.J.S. 46:8B-1, you should look under the heading 'Statutes' at www.njleg.state.nj.us.